

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

KEITH FUQUA, an individual;
STACEY FUQUA, an individual,
on behalf of themselves and all others
similarly situated,

Plaintiffs,

VS.

LINDSEY MANAGEMENT CO., INC., and
DOES 1 THROUGH 10, inclusive

Defendants.

Case No. CIV-07-827-HE

SECOND AFFIDAVIT OF D. SCOTT ROGERSON

I, D. Scott Rogerson, of lawful age, being first duly sworn, do depose and state as follows:

1. I am President of Corporate Operations and Chief Financial Officer for Lindsey Management Co., Inc., ("Lindsey") and I have personal knowledge about the matters testified to herein. I am familiar with the costs associated with managing residential apartment complexes, including the costs associated with developing systems to calculate and collect lease termination damages, the legal costs associated with drafting lease agreements, and the various costs associated with negotiating and communicating with lessees. I am also familiar with the residential lease agreements used at the properties managed by Lindsey. I make this affidavit in support of Lindsey's Response and Objections to Plaintiffs' Motion to Remand in the above referenced matter.

2. Lindsey currently manages a number of residential apartment complexes in the States of Arkansas, Kansas, Mississippi, Missouri, Oklahoma, Tennessee and Texas. There are currently approximately 28,000 individual residential lease agreements in effect for the

properties managed by Lindsey in those States. Each of these residential lease agreements are believed to contain provisions substantially similar to the liquidated damages provision complained of in the above referenced lawsuit.

3. In the event the above-referenced liquidated damages provisions are ordered severed from the existing residential lease agreements at properties managed by Lindsey in the above-referenced States, the responsible party subject to such order would be forced to dramatically alter their business practices as detailed below.

4. The responsible party subject to such an order would be forced to develop a different system to calculate and collect early termination damages at each of the 129 residential apartment complexes managed by Lindsey. I estimate that the cost of developing such a system, including the training of employees at each complex to operate the new system, would total approximately \$50,000.00.

5. The responsible party subject to such an order would be forced to draft, print and distribute new residential lease agreements to replace all existing residential lease agreements for properties managed by Lindsey. I estimate the cost of drafting new residential lease agreements for the nine states in which Lindsey currently does business to be \$8,100.00. I estimate the cost of printing approximately 28,000 new residential lease agreements to be \$6,300.00, not including employee time.

6. The responsible party subject to such an order would be forced to draft, print and distribute notices to approximately 28,000 lessees regarding the removal of the relevant terms from their existing residential lease agreements. I estimate the cost of drafting approximately 28,000 such notices to be \$2,000.00. I estimate the cost of printing approximately 28,000 such


notices to be \$2,520.00. I estimate the cost to distribute approximately 28,000 such notices via United States mail at \$0.41 per apartment unit to be \$11,480.00.

7. The responsible party subject to such an order would be forced to devote a significant amount of employee time to renegotiate the severed liquidated damages and automatic renewal provisions in each of the approximately 28,000 existing residential lease agreements and to answer questions of lessees regarding the changes in their residential lease agreements. I conservatively estimate that this will require at least one hour of employee time for each of the approximately 28,000 existing residential lease agreements. At an average cost of \$7.31 per hour, the cost of such employee time amounts to \$204,680.00.

8. I believe each of the above referenced actions would be necessary to conform the responsible party's business practices to an order severing the liquidated damages provisions from the existing residential lease agreements at properties managed by Lindsey in the above-referenced States. Accordingly, as referenced above, I estimate that the total cost associated with conforming the responsible party's business practices to such an order would be at least \$285,080.00.

I declare under penalty of perjury that the foregoing is true and correct.

Further affiant sayeth not.


D. Scott Rogerson

Subscribed and sworn to before me this 29th day of October, 2007.


NOTARY PUBLIC

My Commission Expires:

